IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

WEDNESDAY, THE 27TH JUNE 2007 / 6TH ASHADHA 1929

WP(C).No. 24897 of 2006(L)

PETITIONER:

M/S.RAMA BAHADUR TAKUR CO.LTD.,
(MMS GROUP), REPRESENTED BY ITS DIRECTOR,
MR.MANISH SHARMA, 1/15, DUTCH CEMETRY ROAD,
KOCHI-01.

BY ADV. SRI.DEVAN RAMACHANDRAN
SMT.T.G.SEETHAL

RESPONDENTS:

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1. THE SALES TAX OFFICER, SPECIAL CIRCLE,
MATTANCHERRY (PRODUCE), KOCHI.

2. THE SPECIAL TAHASILDAR (RR),
KOCHI.

3. M/S RAM BAHADUR TAKUR CO. LTD.,
(CBS GROUP), PILEN BUILDING , BRISTOW ROAD,
W.ISLAND, REPRESENTED BY ITS DIRECTOR,
MR.SAILESH SHARMA.

R1 AND R2 BY G.P. SRI. MOHAMMED RAFIQ

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 27/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1 TRUE COPY OF THE TRANSFER DOCUMENT RELATING TO THE ASSETS OF M/S RAM BAHADUR TAKUR LTD. DATED SEPTEMBER, 1999

EXT.P2 TRUE COPY OF THE ORDER OF THE COMPANY LAW BOARD, PRINCIPAL BENCH, IN COMPANY PETITION NO. 56 OF 1996 NEW DELHI DATED 19.8.1999

EXT.P3 TRUE COPY OF THE JUDGMENT OF THE HON'BLE SUPREME COURT OF INDIA IN CIVIL APPEAL NO. 9446 OF 2003 DATED 21.3.2006

EXT.P4 TRUE COPY OF THE NOTICE ISSUED BY THE 2ND RESPONDENT UNDER THE REVENUE RECOVERY ACT

EXT.P5 TRUE COPY OF THE COMPANY APPLICATION NO. 180/2006 IN CP 56/96 FILED BY THE PETITIONER BEFORE THE COMPANY LAW BOARD

EXT.P6 TRUE COPY OF THE ORDER OF THE COMPANY LAW BOARD, PRINCIPAL BENCH, NEW DELHI IN COP NO. 56/1996 DATED 29.8.2006

EXT.P6(a) TRUE TRANSCRIPT OF EXT.P6

EXT.P7 TRUE COPY OF THE REPRESENTATION MADE BY THE PETITIONER BEFORE THE 2ND RESPONDENT DATED 11.9.2006

EXT.P8 TRUE COPY OF THE ORDER OF THE COMPANY LAW BOARD, PRINCIPAL BENCH, NEW DELHI IN CP 59/96 DATED 14.9.2006

EXT.P8(a) TRUE TRANSCRIPT OF EXT.P8

EXT.P9 TRUE COPY OF THE ORDER OF THE COMPANY LAW BOARD, PRINCIPAL BENCH, NEW DELHI IN CA.NO. 180/2006 IN CP 59/1996 DATED 20.9.2006

EXT.P9(a) TRUE TRANSCRIPT OF EXT.P9

EXT.P10 TRUE COPY OF THE ORDER OF THE 2ND RESPONDENT NO. A3-5548/02 DATED 22.9.2006

EXT.P11 TRUE COPY OF THE REPRESENTATION MADE BY THE PETITIONER BEFORE THE DISTRICT COLLECTOR DATED 23.9.2006

RESPONDENTS' EXHIBITS: NIL

TRUE COPY

P.S. TO JUDGE.

C.N.RAMACHANDRAN NAIR,J.

W.P.C. NO. 24897 OF 2006

Dated this the 27th day of June, 2007

JUDGMENT

This Writ Petition was filed challenging recovery proceedings for recovery of arrears of sales tax. During the pendency of this Writ Petition, second respondent issued notice directing one of the directors of the petitioner company to vacate from the residential building occupied by him. Petitioner's case is that much of the demands will be wiped off, once the assessments are revised in terms of orders in appeals,s revisions, etc. The question raised in this WPC by the petitioner is whether the recovery authority is entitled to dispossess the petitioner from attached properties. I do not think this question needs to be decided now because it will arise only if the petitioner fails to pay arrears of sales tax in terms of revised orders. Petitioner has not made appellate or revisional authorities as parties in this proceeding. Therefore this W.P. is disposed of directing the appellate and revisional authorities before whom petitioner's appeals or revisions are pending to dispose of the same within six weeks from the date of production of a

copy of this judgment by the petitioner. All proceedings for recovery will remain stayed for six weeks from today, and thereafter recovery will be continued for the revised liability after disposal of all appeals and revisions, etc., as directed above. All attachments effected will stand. However, second respondent will not proceed for sale until default is committed by the petitioner after revised demands are served by the assessing officer. No dispossession shall also be made pursuant to attachment until default is committed after service of notice of revised demands by the Officer. All other issues raised in this W.P. are left open.

Issue photocopy tomorrow itself.

(C.N.RAMACHANDRAN NAIR)
Judge